



STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	<b>Enrolled</b>	Bill No:	<b>SB 445</b>
Subject:	<b>Taxpayers' Bill of Rights</b>	Author:	<b>Burton</b>
Board Position:	<b>Neutral</b>	Related Bills:	

**BILL SUMMARY**

Among its provisions, this bill would amend the Sales and Use Tax Law Taxpayers' Bill of Rights to declare that the purpose of any tax proceeding is the determination of the taxpayer's correct amount of tax liability. (Revenue and Taxation Code Sections 7081)

**September 9, 2001 amendments** deleted the provisions that would have required that a contribution to any Board Member aggregating \$250 or more from a committee that has received a contribution aggregating \$250 or more within the preceding 12 months from a corporation that is a party, participant, or agent to any Board hearing be included among contributions subject to **Kopp Act** provisions. (Government Code Section 15626)

**July 16, 2001 amendments** clarify that the Board of Equalization and the Franchise Tax Board may inquire into all relevant information pertaining to a taxpayer's liability in furtherance of the determination of the correct amount of tax liability. These amendments were adopted in the Assembly Revenue and Taxation Committee. (Sections 7081 and 21002)

**June 25, 2001 amendments** deleted the Board of Equalization from the provisions to require that certain writings pertaining to items to be considered at a public meeting as specified, be made available on the Internet, and made available for public inspection at the meeting, prior to any final action being taken on that item. These provision would only apply to the Franchise Tax Board and not the Board of Equalization. (Government Code Section 11125.1)

**Sponsor and purpose.** This bill is sponsored by Senator Burton in an effort to declare that tax proceedings are performed to correctly determine the taxpayer's liability and more efficiently provide interested parties with information pertaining to public meetings.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

**ANALYSIS****Taxpayers' Bill of Rights***Revenue and Taxation Code Sections 7081 and 21002***Current Law**

The Sales and Use Tax Law and the Franchise and Income Tax Law contain Taxpayers' Bill of Rights provisions to ensure that the Board of Equalization (BOE) and Franchise Tax Board (FTB) conduct assessment and collection operations that protect California taxpayers' privacy and property rights. Each respective Bill of Rights contain specific findings and declarations of intent regarding the expectations and responsibilities of taxpayers and both Boards. Taxpayers' Bill of Rights provisions have also been enacted for many other BOE tax and fee programs.

**Proposed Law**

This bill would amend Revenue and Taxation Code Sections 7081 and 21002 to add Legislative findings that the purpose of any proceeding between the BOE or the FTB and a taxpayer is the determination of the taxpayer's correct amount of tax liability. This bill would also state the Legislature's intent that both the BOE and the FTB may inquire into, and shall allow the taxpayer every opportunity to present, all relevant information pertaining to the taxpayer's liability.

**COMMENTS**

1. **Historically, legislators, taxpayers, tax practitioners, tax attorneys, and FTB members have expressed concern with the length of time it takes the agency to resolve protests and appeals.** A Federal Taxpayer Bill of Rights required that FTB, in cooperation with BOE, the State Bar Association, certified public accountants, and other interested parties, develop a plan to reduce the time to resolve state income tax protests and appeals. The plan was implemented by FTB in 1989, and informational packages were developed to inform taxpayers of the new procedures. However, the Office of Administrative Law determined that those packages were invalid regulations.
2. **The BOE recently acted to expedite business tax appeals.** Board staff are required to issue a decision and recommendation within 90 days after the submission of additional documents to the conference holder. BOE staff does not anticipate that the provisions in this bill would have a material impact on its procedures.
3. **The FTB recently proposed protest regulations to specify the procedures necessary for staff to make a "determination of the correct amount of tax."** The protest regulations would have shortened the time for FTB action on a protest from 33 months, which is the average time now taken, to 24 months. They also would have prohibited a re-audit of a taxpayer as part of the protest process unless the taxpayer had opened up new issues or failed to provide information during the audit.

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**COST ESTIMATE**

Any costs associated with the provisions of this bill would be absorbable to the Board of Equalization.

**REVENUE ESTIMATE**

This bill would not impact the state's revenues.

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